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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,318	08/06/2003	David Cope	EMI 02.02	8133
27667	7590	11/02/2006	EXAMINER	
HAYES, SOLOWAY P.C. 3450 E. SUNRISE DRIVE, SUITE 140 TUCSON, AZ 85718			PRESTON, ERIK D	
			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/635,318	Applicant(s) COPE ET AL.	
	Examiner Erik D. Preston	Art Unit 2834	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See *Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-26,29-31 and 44-46.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.


BURTON S. MULLINS
 PRIMARY EXAMINER

Continuation of 3. NOTE: While amending the claims to further include the limitations of the curved interior surface of the lamination stack facing the rotor, and the stator coil establishing a magnetic field to urge said rotor to rotate in said first and second planes may overcome the rejections based on the prior art of record, they also raise new issues requiring further consideration and/or search on the part of the examiner, and for that reason, will not be entered after final.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 10/06/2006 have been fully considered but they are not persuasive.

In response to the applicant's arguments that Fig. 8 shows a third lamination stack that is orthogonal to two other lamination stacks. It is noted that the claims do not make mention of the lamination sheets of the stacks, only the stacks themselves. In Fig. 8, #27 & #41 are orthogonally positioned, while #25 & #41 lie on the same plane. It is also noted that nowhere in the originally filed disclosure is there any mention of the explicit arrangement of the laminations that make up the lamination stacks. Fig. 8, #43 is coil, and not a lamination sheet as is stated by the applicant.

In response to the applicant's argument that the lamination stacks of Corcoran are symmetrically disposed, it is noted that, as can be seen in Fig. 21, the laminations stacks are both adjacent to the output shaft, and asymmetrically disposed with respect to said shaft. One of the stacks extends horizontally while the other extends vertically.

In response to the applicant's argument that Moore does not teach a rotor including at least one magnet disposed thereon and being movable along said interior curved surface of said lamination stacks in directions defining at least first and second degrees of freedom. It is noted that all of the integrally formed rotatable portions of Moore define a single rotor that moves in two degrees of freedom. One of the degrees of freedom is defined by the first lamination stack, and the other is defined by the second lamination stack. The claims make no recitation of the magnets being movable in two degrees of freedom along each of the inner curved surfaces of the lamination stacks.

In response to the applicant's argument that Moore does not teach laminated stator cores, it is noted that Oudet et al. US 5,334,893 (incorporated by reference; Moore: Col. 9, Lines 25-27) teaches this limitation in Col. 4, Lines 60-66.

In response to the applicant's argument that the lamination stacks of Moore do not have curved surfaces, it is noted that this limitation is taught in Figs. 5a & 5b. It is also noted that the applicant admits, in the first paragraph of page 14, that Moore teaches an interior curved surface.

In response to the applicant's argument that the interior curved surface of Moore does not define a portion of a sphere. It is noted that the curved surface of Moore clearly defines a circle (Figs. 5a & 5b). A circle is a portion of a sphere.

In response to the applicant's argument that Deeg does not teach faceted magnets, it is noted that Deeg teaches faceted magnets in Figs. 17 & 18.